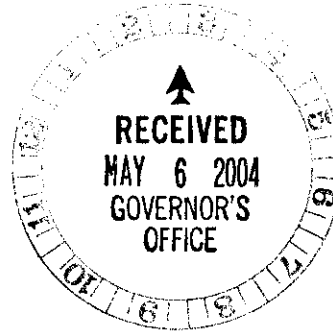


ACT No. 2004- 501

1 SB326
2 62685-2
3 By Senator Preuitt
4 RFD: Energy and Natural Resources
5 First Read: 12-FEB-04



1
2
3 ENROLLED, An Act,

4 To amend Sections 34-11-2, 34-11-4, 34-11-6 to
5 34-11-9, inclusive, 34-11-14, and 34-11-16, Code of Alabama
6 1975, relating to the regulation and licensure of engineers
7 and land surveyors to provide further for: The rights of entry
8 on lands by a professional land surveyor; the graduation and
9 examinations of engineers and land surveyors; the application
10 of a seal by the board; holders of certificates of
11 authorization; filing names and addresses of corporations and
12 firms engaged in the practice; exemptions from licensure and
13 regulation; and the filing of appeals in circuit court.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 34-11-2, 34-11-4, 34-11-6 to
16 34-11-9, inclusive, 34-11-14, and 34-11-16, Code of Alabama
17 1975, are amended to read as follows:

18 "§34-11-2.

19 "(a) No person in either public or private capacity
20 shall practice or offer to practice engineering or land
21 surveying, unless he or she shall first have submitted
22 evidence that he or she is qualified so to practice and shall
23 be licensed by the board as hereinafter provided or unless he
24 or she is specifically exempted from licensure under this
25 chapter.

1 "(b) In order to safeguard life, health, and
2 property, and to promote the public welfare, the practice of
3 engineering in this state is a learned profession to be
4 practiced and regulated as such, and its practitioners in this
5 state shall be held accountable to the state and members of
6 the public by high professional standards in keeping with the
7 ethics and practices of the other learned professions in this
8 state. It shall be unlawful for any person to practice or
9 offer to practice engineering in this state, as defined by
10 this chapter, or to use in connection with his or her name or
11 otherwise assume, use, or advertise any title or description
12 including, but not limited to, the terms engineer, engineers,
13 engineering, professional engineer, professional engineers,
14 professional engineering, or any modification or derivative
15 thereof, tending to convey the impression that he or she is a
16 professional engineer unless the person has been duly licensed
17 or is exempt from licensure under this chapter. A person whose
18 firm name shall have contained the word "engineer,"
19 "engineers," or "engineering," or words of like import, for
20 more than 15 years before September 12, 1966, shall not be
21 prohibited from continuing the use of such word or words in
22 his or her firm name.

23 "(c) In order to safeguard life, health, and
24 property and to promote the public welfare, the practice of
25 land surveying in this state is a learned profession to be

1 practiced and regulated as such, and its practitioners in this
2 state shall be held accountable to the state and members of
3 the public by high professional standards in keeping with the
4 ethics and practices of the other learned professions in this
5 state. It shall be unlawful for any person to practice or
6 offer to practice land surveying in this state, as defined by
7 this chapter, or to use in connection with his or her name or
8 otherwise assume, use, or advertise any title or description
9 including, but not limited to, the terms land surveyor, land
10 surveyors, land surveying, professional land surveyor,
11 professional land surveyors, professional land surveying, or
12 any modification or derivative thereof, tending to convey the
13 impression that he or she is a professional land surveyor
14 unless the person has been duly licensed or is exempt from
15 licensure under this chapter.

16 "(d) Right of entry on land of others by
17 professional land surveyor - Notification of landowner -
18 Liability of landowner. As used in this subsection, the term
19 professional land surveyor shall include the agents, the
20 employees, and any personnel under the supervision of a
21 professional land surveyor.

22 "(1) A professional land surveyor may go on, over,
23 and upon the lands of others which is not enclosed by any
24 device installed to deter entry to or exit from industrial
25 facilities or plant sites by humans or vehicles, if necessary

1 to perform surveys for the location of section corners,
 2 quarter corners, property corners, boundary lines,
 3 rights-of-way, and easements, and may carry and utilize
 4 equipment and vehicles. Entry under the right granted in this
 5 subdivision shall not constitute trespass. A professional land
 6 surveyor shall not be liable to arrest or to a civil action
 7 for trespass by reason of this entry.

8 "(2) Nothing in this subsection shall be construed
 9 as giving authority to a professional land surveyor to
 10 destroy, injure, damage, or move anything on the lands of
 11 another without the written permission of the landowner and
 12 nothing in this section shall be construed as removing civil
 13 liability for the damages.

14 "(3) A professional land surveyor shall make
 15 reasonable effort to notify adjoining landowners upon whose
 16 land it is necessary to enter.

17 "(4) No owner or occupant of the land shall be
 18 liable for any injury or damage sustained by any person
 19 entering upon his or her land under this subsection.

20 "(5) Nothing in this subsection shall limit the
 21 rights of condemning authorities under Sections 18-1A-50 to
 22 18-1A-55, inclusive."

23 "\$34-11-4.

The board may approve engineering, engineering technology, land surveying, and related science programs which shall be accepted under the following criteria:

"(1) PROFESSIONAL ENGINEER. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

"a. Graduation and experience plus examination.

"1. Graduation in an approved engineering curriculum plus four years experience. A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board who has successfully passed the eight-hour written examination in the fundamental engineering subjects and who has a specific record of an additional four years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing this examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, provided the applicant is otherwise qualified.

"2. Graduation in an unapproved engineering curriculum plus six years experience. A graduate of an unapproved engineering curriculum of four years or more who has successfully passed the eight-hour written examination in

1 the fundamental engineering subjects and who has a specific
2 record of an additional six years or more of progressive
3 experience in engineering work of a grade and character
4 satisfactory to the board shall be admitted to an eight-hour
5 written examination in the principles and practice of
6 engineering. Upon passing this examination, the applicant
7 shall be granted a certificate of licensure to practice
8 engineering in this state, provided the applicant is otherwise
9 qualified.

10 "3. Graduation in an approved engineering technology
11 or related science curriculum plus eight years experience.
12 Before December 31, 2005, and not thereafter, a graduate of an
13 approved engineering technology curriculum of four years or
14 more from a school or college approved by the board or a
15 graduate of a related science curriculum of four years or more
16 who has successfully passed the eight-hour written examination
17 in the fundamental engineering subjects and who has a specific
18 record of an additional eight years or more of progressive
19 experience in engineering work of a grade and character
20 satisfactory to the board shall be admitted to an eight-hour
21 written examination in the principles and practice of
22 engineering. Upon passing this examination, the applicant
23 shall be granted a certificate of licensure to practice
24 engineering in this state, provided the applicant is otherwise
25 qualified.

"b. Comity. The board may, upon application, issue a certificate of licensure as a professional engineer to any person who holds a valid professional engineering certificate issued by any jurisdiction of the United States or of any country; provided, that the education, experience, and examination qualifications of the applicant meet the requirements of this chapter and the rules established by the board. The board may authorize an applicant to practice engineering on a temporary basis upon issuance of an interim permit which shall remain in effect until the board acts upon the application. The interim permit may be issued upon submission of documentation and a fee which shall be established by the board, not to exceed fifty dollars (\$50).

"(2) ENGINEER INTERN. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for certification as an engineer intern:

"a. Graduation and examination. A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board who has successfully passed an eight-hour written examination in the fundamental engineering subjects shall be certified as an engineer intern, if otherwise qualified.

"b. Graduation and examination plus experience.

"Graduation in an unapproved engineering curriculum plus two years experience. A graduate of an unapproved engineering curriculum of four years or more who has successfully passed an eight-hour written examination in the fundamental engineering subjects and who has a specific record of two years or more of progressive experience in engineering work of a grade and character satisfactory to the board shall be certified as an engineer intern, if otherwise qualified.

"c. Comity. The education, experience, and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. Fundamentals of engineering examinations of comparable character taken and passed in another jurisdiction may be accepted by the board.

"(3) PROFESSIONAL LAND SURVEYOR. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional land surveyor.

"a. Graduation and experience plus examination.

"1. Graduation in an approved land surveying curriculum plus four years experience. A graduate of an approved land surveying curriculum of four years or more including a minimum of 30 semester hours or 45 quarter hours of surveying courses from a school or college approved by the board who has successfully passed an eight-hour written

1 examination in the fundamental land surveying subjects and who
2 has a specific record of an additional four years or more of
3 combined office and field experience in land surveying work of
4 a grade and character satisfactory to the board shall be
5 admitted to a six-hour written examination in the principles
6 and practice of land surveying and a two-hour written
7 examination on laws, procedures, and practices pertaining to
8 land surveying in Alabama. Upon passing these examinations,
9 the applicant shall be granted a certificate of licensure to
10 practice land surveying, provided the applicant is otherwise
11 qualified.

12 "2. Graduation in an approved curriculum related to
13 surveying plus six years experience. A graduate of a
14 curriculum related to surveying of four years or more
15 including a minimum of 15 semester hours or 22.5 quarter hours
16 of surveying courses from a school or college approved by the
17 board and who has successfully passed the eight-hour written
18 examination in the fundamental land surveying subjects and who
19 has a specific record of an additional six years or more of
20 progressive office and field experience in land surveying work
21 of a grade and character satisfactory to the board shall be
22 admitted to a six-hour examination in the principles and
23 practice of land surveying and a two-hour written examination
24 of laws, procedures, and practices pertaining to land
25 surveying in Alabama. Upon passing these examinations, the

1 applicant shall be granted a certificate of licensure to
2 practice land surveying in this state, provided the applicant
3 is otherwise qualified.

4 "3. Graduation in a related science curriculum plus
5 eight years experience. A graduate of a related science
6 curriculum of four years or more from a school or college
7 approved by the board who has successfully passed the
8 eight-hour written examination in the fundamental land
9 surveying subjects and who has a specific record of an
10 additional eight years or more of progressive combined office
11 and field experience in land surveying work of a grade and
12 character satisfactory to the board shall be admitted to a
13 six-hour examination in the principles and practice of land
14 surveying and a two-hour written examination of laws,
15 procedures, and practices pertaining to land surveying in
16 Alabama. Upon passing these examinations, the applicant shall
17 be granted a certificate of licensure to practice land
18 surveying in this state, provided the applicant is otherwise
19 qualified.

20 "b. Experience plus examination. Before December 31,
21 2007, an applicant who has a specific record of eight years or
22 more of combined office and field experience in land surveying
23 work of a grade and character satisfactory to the board shall
24 be admitted to an eight-hour written examination in the
25 fundamentals of land surveying, and after passing the

1 fundamentals examination shall be admitted to a six-hour
2 written examination in the principles and practice of land
3 surveying and a two-hour written examination on laws,
4 procedures, and practices pertaining to land surveying in
5 Alabama. Upon passing these examinations, the applicant shall
6 be granted a certificate of licensure to practice land
7 surveying in this state, provided the applicant is otherwise
8 qualified.

9 "c. Comity. The board may, upon application, grant
10 to any person who holds a valid professional land surveying
11 certificate issued by any jurisdiction of the United States or
12 of any country, admission into a two-hour written examination
13 of laws, procedures, and practices pertaining to land
14 surveying in Alabama, provided that the education, experience,
15 and examination qualifications of the applicant meet the
16 requirements of this chapter and rules established by the
17 board. Upon passing the examination, the applicant shall be
18 granted a certificate of licensure to practice land surveying
19 in this state, provided the applicant is otherwise qualified.

20 "(4) LAND SURVEYOR INTERN. The following shall be
21 considered as minimum evidence satisfactory to the board that
22 the applicant is qualified for certification as a land
23 surveyor intern:

24 "a. Graduation plus examination. Graduation in an
25 approved land surveying curriculum. A graduate of a land

1 surveying curriculum of four years or more including a minimum
 2 of 30 semester hours or 45 quarter hours of surveying courses
 3 from a school or college approved by the board who has
 4 successfully passed an eight-hour written examination in the
 5 fundamentals of land surveying shall be certified as a land
 6 surveyor intern, if otherwise qualified.

7 "b. Graduation and examination plus experience.

8 "1. Graduation in an approved curriculum related to
 9 surveying plus two years experience. A graduate of a
 10 curriculum related to surveying of four years or more
 11 including a minimum of 15 semester hours or 22.5 quarter hours
 12 of surveying courses from a school or college approved by the
 13 board who has successfully passed an eight-hour written
 14 examination in the fundamentals of land surveying and who has
 15 a specific record of an additional two years or more of
 16 combined office and field experience in land surveying work of
 17 a grade and character satisfactory to the board shall be
 18 certified as a land surveyor intern, if otherwise qualified.

19 "2. Graduation in a related science curriculum plus
 20 four years experience. A graduate of a related science
 21 curriculum of four years or more who has successfully passed
 22 an eight-hour written examination in the fundamentals of land
 23 surveying and who has a specific record of an additional four
 24 years or more of combined office and field experience in land
 25 surveying work of a grade and character satisfactory to the

board shall be certified as a land surveyor intern, if otherwise qualified.

"c. Comity. The education, experience, and examination qualifications of the applicant shall meet the requirements of this section and the rules established by the board. The board may accept fundamentals of land surveying examinations of comparable character taken and passed in another jurisdiction.

"(5) CHARACTER. No person shall be eligible for licensure as a professional engineer, certification as an engineer intern, licensure as a professional land surveyor, or certification as a land surveyor intern who is not of good character and reputation.

"(6) TEACHING CREDITS. In considering the qualifications of applicants, teaching in an engineering curriculum approved by the board may be considered as engineering experience. Teaching land surveying subjects in a land surveying curriculum approved by the board may be considered as land surveying experience.

"(7) GRADUATE STUDY. In counting years of experience for professional engineer licensure, the board may give credit, not in excess of one year, for successful completion of graduate study leading to a master's degree in engineering. If a Ph.D. in engineering is completed, a total of two year's experience may be credited. The two-year credit shall include

one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience shall be two years. In counting years of experience for professional land surveyor licensure, the board may give credit, not in excess of one year, for successful completion of graduate study leading to a master's degree in land surveying. If a Ph.D. in land surveying is completed, a total of two years' experience may be credited. The credit of two years shall include one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience shall be two years.

"(8) NONPRACTICING APPLICANTS. Any person having the necessary qualifications prescribed in this chapter to entitle the applicant to licensure shall be eligible for licensure although the applicant may not be practicing engineering or land surveying at the time of making application."

"§34-11-6.

"(a) Examinations shall be held at such times and places as the board determines and upon payment of an examination fee.

"(b) When examinations are required on fundamental subjects, the applicant shall be permitted to take this part of the professional examination as specified by rules of the board. A candidate failing an examination may apply for reexamination under guidelines established by the board.

1 "(c) When examinations are required on applied
2 subjects, the applicant shall be permitted to take this part
3 of the professional examination as specified by guidelines
4 established by the board. The scope of the examination and the
5 methods of procedure shall be prescribed by the board with
6 special reference to the applicant's ability to design and
7 supervise engineering or land surveying works so as to protect
8 the safety of life, health, and property. Examinations shall
9 be given for the purpose of determining the qualifications of
10 applicants for licensure separately in engineering and in land
11 surveying. A candidate failing an examination may apply for
12 reexamination under guidelines established by the board.

13 "(d) The fees for examination and reexamination
14 shall be set by the board and shall not exceed three hundred
15 dollars (\$300)."

16 "§34-11-7.

17 "(a) The board shall issue a certificate of
18 licensure upon payment of a licensure fee as provided for in
19 this chapter to any applicant who, in the opinion of the
20 board, has satisfactorily met all the requirements of this
21 chapter. In the case of a professional engineer, the
22 certificate shall authorize the practice of engineering. In
23 the case of a professional land surveyor, the certificate
24 shall authorize the practice of land surveying. Certificates
25 of licensure shall show the name of the licensee, shall have a

1 license number, and shall be signed by the chair and the
2 secretary of the board under the seal of the board.

3 "(b) The issuance of a certificate of licensure by
4 the board shall be prima facie evidence that the person named
5 therein is entitled to all the rights and privileges of a
6 professional engineer, or of a professional land surveyor
7 unless the certificate is revoked, suspended, surrendered,
8 lapsed, or expired.

9 "(c) Each professional engineer should upon
10 licensure obtain a seal of the design authorized by the board,
11 bearing the licensee's name, licensure number, and the legend,
12 "licensed professional engineer." Previously purchased seals
13 bearing the terminology "registered" vs. "licensed" may
14 continue to be used until replacement is required. Engineering
15 drawings, plans, specifications, plats, and reports issued by
16 a licensee or by qualified persons under the direction of the
17 licensee and for which the licensee assumes full
18 responsibility shall be certified pursuant to this chapter. It
19 shall be unlawful for anyone to use an expired, suspended,
20 surrendered, lapsed, or revoked certificate or seal or
21 facsimile thereof.

22 "(d) Each professional land surveyor should upon
23 licensure obtain a seal of the design authorized by the board,
24 bearing the licensee's name, licensure number, and the legend,
25 "licensed professional land surveyor." Previously purchased

1 seals bearing the terminology "registered" vs. "licensed" may
2 continue to be used until replacement is required. Land plats,
3 legal descriptions of lands, and land surveying reports issued
4 by a licensee or by qualified persons under the direction of
5 the licensee and for which the licensee assumes full
6 responsibility shall be certified pursuant to this chapter. It
7 shall be unlawful for anyone to use an expired, suspended,
8 surrendered, lapsed, or revoked certificate or seal or
9 facsimile thereof. Whenever the seal is applied, the document
10 must be signed by the licensee thereby certifying that he or
11 she is competent in the subject matter and is responsible for
12 the work product. A digital signature may be used in lieu of a
13 handwritten signature."

14 "§34-11-8.

15 "(a) The board shall, by rule, establish a procedure
16 for renewing certificates of licensure on an annual or a
17 biennial basis. It shall be the duty of the executive director
18 of the board to notify every person licensed under this
19 chapter of the final date of the renewal of his or her license
20 and the amount of the fee required for the renewal. The notice
21 shall be mailed to the last address of the licensee recorded
22 by the executive director of the board at least one month in
23 advance of the renewal deadline. Renewal may be accomplished
24 at any time prior to or during the month of December by
25 payment of the required fee. The board shall establish the

1 renewal fee for each certificate of licensure issued pursuant
2 to this chapter. The amount of the renewal fee shall not
3 exceed one hundred fifty dollars (\$150) for annual renewal or
4 three hundred dollars (\$300) for biennial renewal.

5 Certificates of licensure for professional engineers and
6 professional land surveyors shall lapse on the last day of the
7 month of December, annually or biennially, unless renewed. The
8 board shall, by rule, establish procedures including
9 requirements, time limits, and the minimum continuing
10 professional competency hours required for reinstating or
11 reactivating a lapsed license. The board shall establish a
12 reinstatement fee which shall be based on the period the
13 license was lapsed. A lapsed license, if not reinstated, shall
14 remain in a lapsed classification for a total of four years.
15 Any license which has lapsed for more than four years shall
16 not be eligible for reinstatement or reactivation and is
17 expired.

18 "(1) Any individual whose license has lapsed for
19 nonpayment of renewal fees shall continue to be subject to
20 this chapter and board rules governing licenses until the
21 licensure is revoked by action of the board or the license is
22 not eligible for reinstatement under the rules of the board. A
23 licensee who practices or offers to practice in this state
24 with a lapsed, inactive, or retired license shall be subject
25 to disciplinary action by the board.

1 "(2) No licensee shall have his or her license
2 renewed unless, in addition to any other requirements of this
3 chapter, the minimum annual or biennial continuing
4 professional competency requirement is met. It is further
5 provided that the continuing professional competency program
6 herein required shall not include testing or examination of
7 the licensee in any manner. The board may, by rules, establish
8 exemptions from the continuing professional competency
9 requirement for retired licensees and others in extenuating
10 circumstances as identified by rule of the board.

11 "(b) Enrollment as engineer interns and land
12 surveyor interns shall expire on the last day of the month of
13 December following their issuance or renewal. The notification
14 to interns shall be processed as prescribed above for
15 licensees except that the annual renewal fee shall not exceed
16 ten dollars (\$10). The failure on the part of any intern to
17 accomplish renewal shall not invalidate his or her status as
18 an engineer intern or land surveyor intern, but his or her
19 name shall, after 90 days, be removed from the current mailing
20 list of the board. The fee to bring an enrollment current
21 after a renewal expiration shall be twice that established for
22 annual renewal.

23 "(c) Certificates of authorization issued to
24 corporations, partnerships, or firms practicing or offering to
25 practice engineering or land surveying under this chapter

1 shall lapse on the last day of the month of January following
2 their issuance or renewal, unless renewed. The amount of the
3 renewal fee shall be set by the board and shall not exceed two
4 hundred fifty dollars (\$250). It shall be the duty of the
5 executive director of the board to notify every corporation,
6 partnership, or firm holding a certificate of authorization
7 under this chapter of the final date of renewal of the
8 certificate and the amount of the fee which shall be required
9 for its renewal for one year. The notice shall be mailed by
10 the executive director to the last address recorded for the
11 corporation, partnership, or firm at least one month in
12 advance of the renewal deadline. Renewals may be accomplished
13 at any time prior to or during the month of January by payment
14 of the required fee. Failure by the corporation, partnership,
15 or firm to renew its certificate of authorization prior to or
16 during the month of January shall cause the certificate to
17 lapse, and it shall be unlawful for the corporation,
18 partnership, or firm to practice, offer to practice, or hold
19 itself out as qualified to practice engineering or land
20 surveying in Alabama following the lapse of its certificate of
21 authorization. The board shall, by rules, establish procedures
22 and time limits for reactivating a certificate of
23 authorization and the reinstatement fees which shall be based
24 on the period the certification was lapsed. A firm,
25 partnership, or corporation whose certificate of authorization

has lapsed for nonpayment of renewal fees shall continue to be subject to this chapter and the rules of the board governing licenses until the certificate of authorization is revoked by action of the board or the certificate of authorization is no longer renewable under the rules of the board. If not reinstated, a lapsed certificate of authorization shall remain in a lapsed classification for a period of two years. Any certificate of authorization which has been lapsed for more than two years shall not be eligible for reinstatement or reactivation and is expired."

"§34-11-9.

"(a) Services offered to the public; certificate of authorization required.

"(1) ENGINEERING OR LAND SURVEYING SERVICES. The practice of or offer to practice engineering and land surveying as defined in Section 34-11-1 by individual professional engineers or professional land surveyors licensed under this chapter through a corporation, partnership, or firm offering engineering services or land surveying services to the public through individual licensed professional engineers or professional land surveyors, as agents, employees, officers, or partners, is permitted subject to this chapter and one or more of the principal officers of the corporation, firm, or partners of the partnership and all personnel of the corporation, partnership, or firm who act in its behalf as

1 professional engineers or professional land surveyors in this
2 state are licensed as provided by this chapter, or are persons
3 lawfully practicing under Section 34-11-14 and the
4 corporation, partnership, or firm has been issued a
5 certificate of authorization by the board as provided herein.
6 All final drawings, specifications, plans, reports, or other
7 engineering or land surveying papers or documents involving
8 the practice of engineering or land surveying as defined in
9 Section 34-11-1 of this chapter which shall have been prepared
10 or approved for the use of such corporation, partnership, or
11 firm or for delivery to any person or for public record within
12 the state shall be dated and bear the signature and seal of
13 the professional engineer or professional land surveyor who
14 prepared or approved them. Nothing in this section should be
15 construed to mean that a certificate of licensure to practice
16 engineering or land surveying shall be held by a corporation,
17 partnership, or firm.

18 "(2) JOINT PRACTICE AUTHORIZED. Nothing in this
19 section prohibits an individual, corporation, firm, or
20 partnership from joining together to practice, offering to
21 practice, or holding themselves out as qualified to practice
22 engineering or land surveying provided that the individual,
23 corporation, firm, or partnership meets the requirements of
24 this section.

"(3) LIABILITY GENERALLY. No corporation, firm, or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section, nor shall any individual practicing engineering or land surveying as defined in Section 34-11-1 be relieved of responsibility for work performed by reason of employment, association, or relationship with the corporation, partnership, or firm.

"(4) APPLICATION FOR CERTIFICATE OF AUTHORIZATION. A corporation, partnership, or firm desiring a certificate of authorization shall file with the board an application upon a form to be prescribed by the board and the designation required by subdivision (5), accompanied by the licensure fee prescribed by subsection (d) of Section 34-11-5.

"(5) RESIDENT LICENSEE. Every firm, partnership, corporation, or other entity which performs or offers to perform engineering or land surveying services shall have a resident licensed professional engineer or land surveyor in responsible charge of the engineering or land surveying work for each separate office or branch office in which engineering or land surveying services are performed or offered to be performed. The board shall issue rules to ensure adequate engineering supervision and surveying supervision of all work.

"(6) FILING NAMES AND ADDRESSES OF OFFICERS, ETC., REQUIRED. A corporation or firm shall file with the board,

1 using a form provided by the board, the names and addresses of
2 all officers and board members of the corporation or firm
3 including the principal officer or officers duly licensed to
4 practice engineering or land surveying in this state, who
5 shall be in responsible charge of the practice or offering to
6 practice of engineering or land surveying in this state by the
7 corporation or firm and of the individual or individuals
8 designated as the responsible engineer or land surveyor of
9 each branch office offering or performing Alabama engineering
10 or land surveying. A partnership shall file with the board
11 using a form provided by the board, the names and addresses of
12 all partners, including the partner or partners duly licensed
13 to practice engineering or land surveying in this state, and
14 also of an individual or individuals duly licensed to practice
15 engineering or land surveying in this state who shall be in
16 responsible charge of the practice of engineering or land
17 surveying in this state at the branch offices of the
18 partnership. The same form, giving the same information, shall
19 accompany the annual renewal fee prescribed in subsection (c)
20 of Section 34-11-8. In the event there is a change in the firm
21 name or in any of the partners or principal officers during
22 the year, the changes shall be filed with the board by the
23 corporation, partnership, or firm within 30 days after the
24 effective date of the change.

"(7) ISSUANCE OF CERTIFICATE OF AUTHORIZATION;
SUSPENSION; REVOCATION. If all the requirements of this
section are met, the board shall issue to the corporation,
partnership, or firm a certificate of authorization. The board
may refuse to issue a certificate, if any facts exist which
would entitle the board to suspend or revoke an existing
certificate. Any person aggrieved by an adverse determination
of the board may appeal to the circuit court in the manner
provided in Section 34-11-13.

"(8) CERTIFICATE REQUIRED OF ORGANIZATION OPERATING
UNDER FICTITIOUS NAME. For the purposes of this section, a
certificate of authorization shall be required by a
corporation, partnership, firm, association, or person
practicing under a fictitious name, offering engineering or
land surveying services to the public. Where a licensee is
practicing engineering or land surveying in his or her own
given name, the licensee shall not be required to qualify
under this section.

"(b) Incidental engineering or land surveying
services; certificate of authorization not required. The
practice of engineering or land surveying incidental to or in
connection with production, manufacture, transportation,
distribution, or communication may be carried on by any
person, partnership, firm, or corporation engaged in such
production, manufacture, transportation, distribution, or

1 communication and will not require a certificate of
2 authorization. The engineering and land surveying services
3 shall be performed by or under the direction of a professional
4 engineer or professional land surveyor licensed in conformity
5 with this chapter. All drawings, plans, specifications, plats,
6 and reports involving the practice of engineering or land
7 surveying shall when issued be dated and bear the seal or
8 facsimile of the seal, signature, and licensure number of the
9 professional engineer or land surveyor in responsible charge
10 thereof."

11 "§34-11-14.

12 "This chapter shall not be construed to prevent or
13 to affect any of the following:

14 "(1) The practice of any other legally recognized
15 profession or trade.

16 "(2) The work of an engineer intern or land surveyor
17 intern, employee, or a subordinate of any person holding a
18 certificate of licensure under this chapter, or any employee
19 of a person practicing lawfully under paragraph b of
20 subdivision (1) of Section 34-11-4, if the work is done under
21 the responsibility and supervision of a person holding a
22 certificate of licensure under this chapter or a person
23 practicing lawfully under paragraph b of subdivision (1) of
24 Section 34-11-4.

1 "(3) The practice of officers and employees of the
2 government of the United States while engaged within this
3 state in the practice of engineering or land surveying for the
4 government. This exception does not extend to any engineer or
5 land surveyor engaged in the practice of professional
6 engineering or land surveying whose compensation is based in
7 whole or in part on a fee.

8 "(4) The practice of engineering or land surveying
9 with respect to transportation or utility facilities by any
10 transportation company or public utility subject to regulation
11 by the Alabama Public Service Commission, the Federal Aviation
12 Administration, the Federal Communications Commission, the
13 Federal Energy Regulatory Commission, or the Nuclear
14 Regulatory Commission, including its parents, affiliates, or
15 subsidiaries; or by the officers and employees of any
16 transportation company or public utility including its
17 parents, affiliates, or subsidiaries. This exception shall not
18 extend to any engineer or land surveyor engaged in the
19 practice of engineering or land surveying whose compensation
20 is based in whole or in part on a fee.

21 "(5) The practice of engineering or land surveying
22 by any person who is employed by the Alabama Department of
23 Transportation prior to January 1, 1997, in any engineering or
24 engineering assistant classification series under the State of
25 Alabama Personnel Board, Merit System.

1 "(6) The mere execution as a contractor of work
2 designed by a professional engineer or the supervision of the
3 construction of such work as a foreman or superintendent.

4 "(7) The performance of engineering services which
5 are purely incidental to the practice of architecture by
6 registered architects, or their employees, or subordinates
7 under their responsible supervising control.

8 "(8) The performance of engineering services which
9 are purely incidental to the practice of geology by registered
10 geologists, their employees, or subordinates under their
11 responsible charge."

12 "§34-11-16.

13 "(a) In addition to any other provisions of law, the
14 board may enter an order assessing a civil penalty against any
15 non-licensed person, corporation, or other entity found guilty
16 by the board of, but not limited to, the following violations
17 of this chapter.

18 "(1) Engaging in the practice or offer to practice
19 of engineering or land surveying in this jurisdiction without
20 being licensed in accordance with this chapter.

21 "(2) Using or employing the words "engineer,"
22 "engineering," "land surveyor," "land surveying," or any
23 modification or derivative thereof in its name or form of
24 business activity, except as authorized in this chapter.

1 "(3) Presenting or attempting to use the certificate
2 of licensure or the seal of another licensed engineer or
3 licensed land surveyor.

4 "(4) Giving false or forged evidence of any kind to
5 the board or a member of the board in obtaining or attempting
6 to obtain a certificate of licensure.

7 "(5) Falsely impersonating another licensed engineer
8 or licensed land surveyor of like or different name.

9 "(6) Using or attempting to use a revoked or
10 non-existent certificate of licensure.

11 "(b) The board shall determine the amount of the
12 civil penalty which shall be paid to the State General Fund.
13 The amount shall not exceed two thousand five hundred dollars
14 (\$2,500) for each and every separate offense.

15 "(c) Before issuing an order under this section, the
16 board shall provide the person written notice and the
17 opportunity to request, within 30 days of notice by the board,
18 a hearing on the record.

19 "(d) Pursuant to the proceedings under this section,
20 the board may issue subpoenas to compel the attendance and
21 testimony of witnesses and the disclosure of evidence, and may
22 request the Attorney General to bring an action to enforce a
23 subpoena.

24 "(e) A person aggrieved by the levy of a civil
25 penalty under this section may file an appeal to the Circuit

1 Court of Montgomery County exclusively for judicial review of
 2 the penalty within 30 days notwithstanding the Administrative
 3 Procedure Act. Unless an appeal is taken, or the penalty paid,
 4 the order of the board imposing the civil penalty shall become
 5 a judgment.

6 "(f) If a person fails to pay a civil penalty within
 7 30 days after entry of an order pursuant to subsection (a) or
 8 if the order is stayed pending an appeal, within 10 days after
 9 the court enters a final judgement in favor of the board of an
 10 order appealed pursuant to subsection (e), the board shall
 11 notify the Attorney General. The Attorney General may commence
 12 a civil action to recover the amount of the penalty, plus
 13 attorney's fees and costs.

14 "(g) The cost to the board of the action shall be
 15 paid by the respondent if found in violation."

16 Section 2. This act shall become effective on the
 17 first day of the third month following its passage and
 18 approval by the Governor, or its otherwise becoming law.

Lacy Baxley

President and Presiding Officer of the Senate

McDowell Lee

Speaker of the House of Representatives

SB326

Senate 15-APR-04

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee
Secretary

House of Representatives
Passed: 06-MAY-04

By: Senator Preuitt

APPROVED 5-17-04
TIME 8:24 am
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2004-501
Bill Num...: S-326